



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 3, 2021

VIA ECF

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

**Re: *United States v. Joshua Adam Schulte,*
S3 17 Cr. 548 (JMF)**

Dear Judge Furman:

The Government respectfully submits this letter pursuant to the Court's Order dated November 16, 2021 (D.E. 592) regarding the disclosure of the March 16, 2017 affidavit in support of a warrant to search the defendant's cellphone. After reviewing the records of discovery in this matter, it appears the affidavit was not produced prior to its attachment to the Government's opposition to the defendant's motion to suppress the search of the cellphone. (D.E. 525 Ex. 6). We believe the affidavit was not produced earlier because the search of the cellphone pursuant to that warrant was unsuccessful (D.E. 525 Ex. 12 ¶ 13(a)-(c) & n. 4) and the fact of the prior warrant and attempted search was disclosed in the September 9, 2019 affidavit in support of the second warrant to search the cellphone (*id.*), which was produced in discovery on or about September 13, 2019. (Ex. 1). The search pursuant to the second warrant resulted in the seizure of electronic records that were produced in discovery on or about September 24, 2019. (Ex. 2).

The Government is continuing its review of discovery records in this matter to determine whether any other materials subject to Rule 16 have not yet been produced. In addition to the March 16, 2017 cellphone search warrant, it appears that two affidavits in support of warrants for cellphone GPS location data were not previously produced, and the Government is producing those today. It does not appear that any data or records were obtained as a result of the GPS warrants. We believe that all search warrants that were obtained in the course of the investigation and related affidavits have now been produced to the defendant. If the discovery review identifies any additional materials subject to Rule 16 that have not yet been produced, we

cc: Standby counsel (by ECF)
Joshua Adam Schulte (by mail)